

U.S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of HENRY A. SMITH and U.S. POSTAL SERVICE,
POST OFFICE, Bellmawr, N.J.

*Docket No. 97-408; Submitted on the Record;
Issued October 6, 1998*

DECISION and ORDER

Before MICHAEL J. WALSH, WILLIE T.C. THOMAS,
A. PETER KANJORSKI

The issue is whether appellant has established that he sustained an injury in the performance of duty on March 13, 1995.

A person who claims benefits under the Federal Employees' Compensation Act¹ has the burden of establishing the essential elements of his or her claim. The claimant has the burden of establishing by the weight of reliable, probative and substantial evidence that the condition for which compensation is sought is causally related to a specific employment incident or to specified conditions of the employment. As part of this burden, the claimant must present rationalized medical opinion evidence based upon a complete factual and medical background showing causal relationship.²

In the present case, appellant filed a claim on March 15, 1995 alleging that his left arm and leg and right arm and foot became almost paralyzed when he attempted to lift a mail tray while in the performance of duty. The Office of Workers' Compensation Programs initially denied appellant's claim on the grounds that he had failed to establish that he had sustained an injury as alleged. In a March 4, 1996 decision, an Office hearing representative found that appellant did in fact engage in activities requiring lifting books or tubs from an APC container as contended, on March 13, 1995. However, the hearing representative denied compensation benefits on the grounds that appellant had failed to establish that he sustained an injury as a result of the lifting incident in the performance of duty.

The Board has duly reviewed the case record and concludes that appellant has established that the lifting incident on March 13, 1995 occurred as alleged, but that appellant has failed to

¹ 5 U.S.C. §§ 8101-8193.

² *Kathryn Haggerty*, 45 ECAB 383 (1994).

submit medical evidence that establishes the lifting incident resulted in an injury on March 13, 1995.

The medical reports of record which address appellant's claim consists of two reports from Dr. Tariq S. Siddiqi, appellant's treating physician Board-certified in neurological surgery. In a medical report dated March 10, 1995, Dr. Siddiqi stated that appellant's neck injury "could possibly have been caused by his job, but in lieu of any work accident it may be difficult to prove." He further noted that he felt that appellant's work injury had "definitely aggravated his condition." However, this report is insufficient to establish that appellant sustained an injury as a result of the lifting incident reported on his notice of injury form. In a May 22, 1995 medical report, Dr. Siddiqi stated that appellant advised him that his injury occurred at work around March 5, 1995 when he was lifting a tub and heard a loud "pop" in his neck. He stated that the herniated discs at C3-4 were a direct result of the work-related injury "within a reasonable amount of medical certainty." However, this report has limited probative value for several reasons. Appellant stated in his claim that his injury occurred on March 13, 1995, not March 5, 1995 as Dr. Siddiqi noted in his report. Thus the report is not based on an accurate history of the injury and therefore its probative value is diminished.³ In addition, this report is also speculative in that Dr. Siddiqi failed to provide a rationalized medical opinion establishing a causal relationship between the accepted injury and the lifting incident.⁴

As appellant did not submit rationalized medical evidence establishing that he sustained an injury on March 13, 1995 as a result of the lifting incident that day, he has failed to meet his burden of proof.

On reconsideration, appellant submitted an addendum to Dr. Siddiqi's May 22, 1995 report. He made reference to appellant's lifting incident on March 13, 1995, reviewed the chronology of appellant's claim and stated he believed the accident aggravated appellant's preexisting condition and necessitated the March 15, 1995 surgery. Because Dr. Siddiqi offered no rationale for his opinion, it is not probative. Thus, the Office, in its decision dated August 12, 1996, properly denied modification of the hearing representative's decision dated March 4, 1996.

³ See *Barbara A. Robertson*, 45 ECAB 797 (1994).

⁴ *Ern Reynolds*, 45 ECAB 690 (1994).

The decisions of the Office of Workers' Compensation Programs dated August 12 and March 4, 1996 are affirmed.

Dated, Washington, D.C.
October 6, 1998

Michael J. Walsh
Chairman

Willie T.C. Thomas
Alternate Member

A. Peter Kanjorski
Alternate Member